

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

QUALITY EQUIPMENT LEASING, LLC,)
)
Plaintiff,)
)
v.) Case No.: 2:19-cv-309-MHT-WC
)
SHAW TRANSFER TRUCKING, LLC,)
)
Defendant.)

ORDER

Pending before the Court is the Plaintiff's *Motion for Default Judgment with Leave to Prove Damages* (Doc. 16) filed on August 13, 2019. Rule 55 of the Federal Rules of Civil Procedure governs the procedure for obtaining default judgment. "When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default." Fed. R. Civ. P. 55(a). An entry of default by the Clerk precedes the entry of default judgment. Fed. R. Civ. P. 55(a)-(b); see *Stallworth v. Imani Env'tl. Group, Inc.*, No. 2:12-CV-814-WKW, 2013 WL 1896193, at *1 (M.D. Ala. 2013). "[A]fter the entry of default, where damages are not for a 'sum certain,' a plaintiff 'must apply to the court for a default judgment,' and 'the court may conduct a hearing on damages.'" *Stallworth*, 2013 WL 1896193, at *1. The Plaintiff having failed to apply to the Clerk for entry of default in this case, the motion for default judgment is premature. Accordingly, it is

ORDERED that Motion for Default Judgment is DENIED as premature.

DONE this the 12th day of September, 2019.

/s/ Wallace Capel, Jr.
WALLACE CAPEL, JR.
CHIEF UNITED STATES MAGISTRATE JUDGE